



CASE PI/5-20691/APCT

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Sharon K. Waynick
Type or print name

Sharon K. Waynick
Signature

May 18, 1999
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Art Unit: 1613

O'SULLIVAN ET AL.

Examiner: R. Gerstl

APPLICATION NO: 09/091,333

FILED: OCTOBER 26, 1998

FOR: PROCESS FOR THE PREPARATION OF 2-CHLORO-5-
CHLOROMETHYL-THIAZOLE

#108
SUGG
580-99

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This paper is responsive to the Office Action dated March 18, 1999 (paper No. 7) and has been filed within 2 months from the mailing date of the said Office Action. Please find herein attached a Petition for Extension of Time of one month.

1. Traverse of Species Election Requirement.

Applicants traverse the species election requirement. The PTO has failed to provide any authority that would require Applicants to make the indicated species election in the instant PCT national stage application. Unity of Invention (not Restriction) practice is applicable in U.S. applications filed under 35 U.S.C. § 371. See M.P.E.P. § 1893.03(d). Note, even if it were proper to restrict the instant case under §121 (which it is not) it would still be improper to require a species election for chemical process claims. Applicants hereby request reconsideration and withdrawal of the species election requirement.

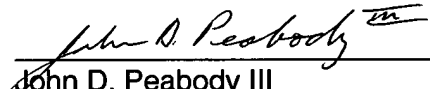
2. Election of invention.

In order to be fully responsive Applicants hereby elect the species of formula II with traverse. Reconsideration and withdrawal of the Restriction Requirement are respectfully requested for the aforementioned reasons.

Applicant respectfully submits that the present application is now in condition for examination on the merits. A Notice of Allowance is respectfully solicited. If any fee is due in connection with this response, the Assistant Commissioner is authorized to charge Deposit Account No. 19-0134 for the appropriate amount.

Respectfully submitted,

Novartis Corporation
Patent and Trademark Dept.
564 Morris Avenue
Summit, NJ 07901-1027
(336) 632-7013



John D. Peabody III
Agent for Applicants
Reg. No. 41,440

Date: May 18, 1999